REMARKS/ARGUMENTS

In view of the foregoing amendments and the following remarks, the applicant respectfully submits that the pending claims comply with 35 U.S.C. § 112 and are not rendered obvious under 35 U.S.C. § 103. Accordingly, it is believed that this application is in condition for allowance. **If, however, the Examiner believes that there are any unresolved issues, or believes that some or all of the claims are not in condition for allowance, the applicant respectfully requests that the Examiner contact the undersigned to schedule a telephone Examiner Interview before any further actions on the merits.**

The applicant will now address each of the issues raised in the outstanding Office Action.

Rejection under 35 U.S.C. § 112

Claims 1, 3-10, 14-18, 20-22 and 24 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The applicant respectfully requests that the Examiner reconsider and withdraw this ground of rejection in view of the following.

The Examiner concluded that the term "POS" used in the rejected claims was not clearly defined. Since the term POS is well understood in the relevant art as "point-of-sale," the claims are believed to comply with 35 U.S.C. § 112, ¶ 2. In any event, the claims have been amended to replace "POS" with

"point-of-sale" to expedite prosecution. Accordingly, this ground of rejection should be withdrawn.

Rejection under 35 U.S.C. § 103

Claims 1, 3-10 and 13-24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,601,040 ("the Kolls patent"). The applicant respectfully requests that the Examiner reconsider and withdraw this ground of rejection in view of the following.

Before addressing aspects of the claimed invention that render it patentable over the Kolls patent, the Kolls patent is introduced. The Kolls patent concerns a control and payment system to (i) distribute and display interactive advertising, (ii) conduct electronic mail, electronic commerce, electronic business and (iii) control the billing for the use of vending equipment such as copiers, phones, facsimile machines, printers, data-ports, laptop print stations, notebook computers, personal digital assistants, microfiche devices, projectors, scanners, modems, communications access, PCs, PC terminals, and network computers. (See, e.g., column 3, line 65 through column 4, line 10.) Such vending equipment may be networked, and may be programmed and accessed by a PC server, a POS system, a property or management information system, etc. Control of vending machine functionality may be performed locally, or by remote connection to the network. (See, e.g., the Abstract.)

As can be appreciated by the foregoing, the Kolls patent concerns vending equipment. The vending equipment is not a POS system. However, the vending equipment may be integrated with an existing POS system, which may be used as a management information system (MIS). (See, e.g., column 8, lines 10-15.)

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Therefore, the POS system discussed in the Kolls patent may be used to control vending equipment. This is quite different from the POS system and POS terminals recited in the claims as will become apparent below.

At least some of the claims are not rendered obvious by the Kolls patent because the Kolls patent neither teaches, nor suggests, storing POS execution programs on a host, but not on the POS. Independent claims 1, 9, 10, and 13 recite this feature. The Examiner contends that the Abstract of the Kolls patent discloses that the execution of processes may occur at a host unit while the POS terminal unit may not have such execution programs. (See Paper No. 13, page 3.) This is not correct. As discussed above, the POS system discussed in the Kolls patent may be used to control vending equipment. It is unclear what the Examiner considers to be the host unit. In any event, the POS system discussed in the Kolls patent apparently can store execution programs for vending equipment. This neither teaches, nor suggests, a host storing execution programs for a POS terminal. Accordingly, independent claims 1, 9, 10 and 13 are not rendered obvious by the Kolls patent for at least this reason. Since claims 3-8, 16 and 20 depend, either directly or indirectly, from claim 1, since claims 17 and 21 depend from claim 9, since claims 18 and 22 depend from claim 10, and since claims 19 and 23 depend from claim 13, these claims are similarly not rendered obvious by the Kolls patent.

At least some of the claims are not rendered obvious by the Kolls patent because the Kolls patent neither teaches, nor suggests, performing execution program updates on the host, but not on the POS. Independent claims 9 and 14 recite this feature. The Examiner did not even address this element in the Office Action, and therefore did not make a prima facia

showing of obviousness. Accordingly, independent claims 9 and 14 are not rendered obvious by the Kolls patent for at least this reason. Since claims 17 and 21 depend from claim 9, and since claim 15 depends from claim 14, these claims are similarly not rendered obvious by the Kolls patent.

At least some of the claims are not rendered obvious by the Kolls patent because the Kolls patent neither teaches, nor suggests, storing POS maintenance programs on the host, but not on the POS. Independent claims 10 and 13 recite this feature. The Examiner contends that maintenance systems within a POS system are well known. If the Examiner is relying on his personal knowledge, the applicant respectfully requests that the Examiner provide an affidavit or declaration to that effect. (See, e.g., MPEP 2144.03(C) and 37 C.F.R. § 1.104(d)(2).) Even assuming, arguendo, that maintenance systems in POS systems are known, claims 10 and 13 recite that the maintenance programs are stored in the host, but not in the POS. Accordingly, independent claims 10 and 13 are not rendered obvious by the Kolls patent for at least this reason. Since claims 18 and 22 depend from claim 10, and since claims 19 and 23 depend from claim 13, these claims are similarly not rendered obvious by the Kolls patent.

At least some of the claims are not rendered obvious by the Kolls patent because the Kolls patent neither teaches, nor suggests, execution programs for different kinds of services stored at the host. Independent claims 10 and 24 recite this feature. The Examiner did not even address this element in the Office Action, and therefore did not make a prima facia showing of obviousness. Accordingly, independent claims 10 and 24 are not rendered obvious by the Kolls patent for at least this reason. Since claims 18 and 22 depend from claim

10, these claims are similarly not rendered obvious by the Kolls patent.

Claim 6 which depends from claim 1 further recites that POS management programs are only stored at the host. This feature further distinguishes the claimed invention over the Kolls patent. The Examiner did not even address this element in the Office Action, and therefore did not make a prima facia showing of obviousness.

Dependent claims 8 and 15 further recite that data is not held at a POS terminal after it is forwarded to the host. This feature further distinguishes the claimed invention over the Kolls patent. The Examiner did not even address this element in the Office Action, and therefore did not make a prima facia showing of obviousness.

Conclusion

In view of the foregoing amendments and remarks, the applicant respectfully submits that the pending claims are in condition for allowance. Accordingly, the applicant requests that the Examiner pass this application to issue.

Respectfully submitted,

February 17, 2004

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CERTIFICATE OF MAILING under 37 C.F.R. 1.8(a)

    I hereby certify that this correspondence is being deposited on **February 17, 2004** with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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